

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MYRTIS PAULO HART,

Plaintiff,

vs.

No. CV 21-01107 MV/KRS

WALMART, and
FEDERAL BUREAU OF INVESTIGATION,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court *sua sponte* under Rule 41(b) of the Federal Rules of Civil Procedure on the “Claim for Damage, Injury, or Death” filed by Plaintiff Myrtis Paulo Hart. (Doc. 1, Doc. 4 (redacted)) (“Complaint”). The Court will dismiss the Complaint without prejudice as set forth herein.

This is one of the many cases that Plaintiff has filed in this Court.¹ Plaintiff filed his Complaint on November 16, 2021. Doc. 1; Doc. 4. The Complaint appears to be on a federal Tort

¹ *Hart v. State of New Mexico*, CV 19-00089 MV/GJF; *Hart v. Gallegos*, CV 19-00128 JCH/JFR; *Hart v. Gallegos*, CV 19-00175 RB/GBW; *Hart v. Gallegos*, CV 19-00766 JB/KBM; *Hart v. Gallegos*, CV 19-00834 MV/JHR; *Hart v. Gallegos*, CV 19-00932 MV/SCY; *Hart v. Gallegos*, CV 20-00595 WJ/SMV; *Hart v. Borne*, CV 20-00965 KG/JFR; *Hart v. McDonald’s*, CV 20-01044 WJ/JFR; *Hart v. Central New Mexico Correctional Facility*, CV 20-01046 KG/GB; *Hart v. Clovis Police Department*, CV 20-01064 KG/SMV; *Hart v. Federal Bureau of Investigation*, CV 20-01141 MV/JFR; *Hart v. United States*, CV 21-0008 KG/CG; *Hart v. Lytle*, CV 21-00017 MV/GBW; *Hart v. Saavedra*, CV 21-00106 KWR/GBW; *Hart v. Guadale*, CV 21-00131 JB/SCY; *Hart v. Northwestern New Mexico Correctional Facility*, CV 21-00136 KG/KK; *Hart v. Central New Mexico Correctional Facility*, CV 21-00137 KWR/JFR; *Hart v. Northwestern New Mexico Correctional Facility*, CV 21-00186 JB/SMV; *Hart v. Curry County Adult Detention Center*, CV 21-01011 RB/KBM; *Hart v. Talin Market World Food Fare*, CV 21-01012 KG/SCY; *Hart v. Dank Smoke Shop and Grocery*, CV 21-01013 KG/GBW; *Hart v. Discount Liquors*, CV 21-01014 JCH/SCY; *Hart v. State of New Mexico*, CV 21-01048 JCH/KRS; *Hart v. Adult Probation and Parole*, CV 21-01049 JB/KBM; *Hart v. Martinez*, CV 21-01073 JB/GB; *Hart v. Summit Food Service*, CV 21-01074 MIS/LF; *Hart v. Sellers*, CV 21-01075 MV/KK; *Hart v.*

Claims Act notice. The Complaint alleges: “All points and times that I went to Walmart I was under duress and discriminated against because of FBI Broadcast which ruin my shopping experience and caused me to act nervously.” Doc. 1 at 1; Doc. 4 at 1. Plaintiff seeks damages in the amount of \$250 million for injuries to property, finances, and private information against a private store, Walmart, and the Federal Bureau of Investigation. Doc. 1 at 1; Doc. 4 at 1.

Plaintiff did not pay the filing fee or submit an application to proceed *in forma pauperis* at the time that he filed the Complaint. The Court entered an Order to Cure Deficiency on November 17, 2021, directing Plaintiff to put his Complaint in proper form and either pay the filing fee or submit an application to proceed under 28 U.S.C. § 1915 within thirty days of entry of the Order. Doc. 3. With the Order to Cure, the Court also provided Plaintiff with a form Application to Proceed in District Court Without Prepayment of Fees or Costs. *Id.* at 2. The Order advised Plaintiff that if he failed to cure the deficiencies within the 30-day time-period, the Court could dismiss this proceeding without further notice. *Id.* at 1.

Plaintiff did not comply with the Court’s November 17, 2021 Order. Instead, the copy of the Order to Cure mailed to Plaintiff at his address of record was returned as undeliverable, as was additional mail to Plaintiff. Doc. 5, 6, 7, 8. A search of the New Mexico Department of Corrections records disclosed that Plaintiff had been transferred from the Curry County Adult Detention Center to Central New Mexico Correctional Facility. Therefore, the Court re-mailed

Curry County Adult Detention Center, CV 21-01078 MV/SMV; *Hart v. Curry County Adult Detention Center*, CV 21-01079 KG/KRS; *Hart v. Seven-Eleven*, CV 21-01105 KG/GJF; *Hart v. WalMart*, CV 21-01107 MV/KRS; *Hart v. Sahara Hotel*, CV 21-01108 JB/KRS; *Hart v. Federal Bureau of Investigation*, CV 21-01124 KG/SCY; *Hart v. Foot Locker Corporation*, CV 21-01135 MIS/GBW; *Hart v. Lil Caesars*, CV 21-01136 KWR/KBM; *Hart v. Transition for Living*, CV 21-01137 MV/CG; *Hart v. Fairfield (Hotel)*, CV 21-01161 WJ/SCY.

the Order to Cure Deficiency to Plaintiff at Central New Mexico Correctional Facility on December 9, 2021.

On December 27, 2021, Plaintiff filed the form Application to Proceed. Doc. 9. However, the Application is still deficient because Plaintiff did not include the required six-month inmate account statement. 28 U.S.C. § 1915(b). More than two months have elapsed after entry of the Court's Order to Cure Deficiency and more than 30 days have passed since the Order was remailed to Plaintiff. Plaintiff has not put his Complaint in proper form, paid the filing fee, submitted a complete application to proceed under § 1915, or otherwise responded to the Court.

Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required collect the filing fee from Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has failed to either pay the filing fee or submit a complete application to proceed under § 1915 in proper form. The Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Order of November 17, 2021, failure to comply with statutes and rules, and failure to prosecute this proceeding. *Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003).

IT IS ORDERED:

(1) the Application to Proceed in District Court Without Prepayment of Fees or Costs filed by Plaintiff Myrtis Paulo Hart (Doc. 9) is **DENIED** for failure to comply with § 1915; and

(2) the Claim for Damage, Injury, or Death filed by Plaintiff Myrtis Paulo Hart on November 16, 2021 (Doc. 1, Doc. 4 (redacted)) is **DISMISSED** without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute or to comply with 28 U.S.C. §§ 1914 and 1915 and with the Court's November 17, 2021 Order.



MARTHA VAZQUEZ
SENIOR UNITED STATES DISTRICT JUDGE